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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,765	03/08/2004	Katsumi Ochiai	FS.20131US0A	1032
20995	7590	10/06/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			SWINEHART, EDWIN L	
			ART UNIT	PAPER NUMBER
			3617	
DATE MAILED: 10/06/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/795,765	OCHIAI, KATSUMI	
	Examiner	Art Unit	
	Ed Swinehart	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-17 and 19-23 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119.

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

1. Applicant's election with traverse of the throttle valve species in the reply filed on 7/19/2005 is acknowledged. The traversal is on the ground(s) that only two claims are directed towards a non-elected specie, and therefore examination thereof would not be a burden to the examiner. This is not found persuasive because persuasive, as although the number of claims is few, a different search is still required for this other specie.

The requirement is still deemed proper and is therefore made FINAL.

2. Claim 3 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected specie, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7/19/2005.

Applicant makes mention of claims 24-35, however, the current application was filed with only 23 claims.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,2,4-17 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nichols et al. in view of Salecker et al.

Nichols discloses the field of the invention, with exception of a mechanical connection between movable member and sensor.

Salecker teaches a sensor (potentiometer) connected to the element to be sensed via a link, thereby resulting in an arrangement with first and second movable members as claimed.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide as throttle valve sensor and/or throttle pedal sensor of Nichols, a potentiometer connected via a linkage arrangement.

Such a combination would have been desirable at the time of the invention so as to provide for ease in adjusting and replacing respective sensors.

Re “for a marine drive”, such is considered to be a statement of intended use, carrying little/no weight in the claims as presented. Furthermore, provision of a throttle control as that of Oja upon a marine engine would have been obvious to one of ordinary skill in the art at the time of the invention.

Re claim 10, the number of throttle valves provided such is considered to have been an obvious design consideration to the ordinary routineer working in the art at the time of the invention, providing no unexpected results.

5. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kikori et al., Huber et al. and Peter et al. teach throttle control systems.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Swinehart whose telephone number is 571-272-6688. The examiner can normally be reached on Monday through Thursday 6:30 am to 2:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ed Swinehart
Primary Examiner
Art Unit 3617